

Senate File 2297

H-8118

1 Amend Senate File 2297, as passed by the Senate, as  
2 follows:

3 1. By striking everything after the enacting clause  
4 and inserting:

5 <Section 1. NEW SECTION. 709D.1 Title.

6 This chapter shall be known and may be cited as the  
7 "*Contagious or Infectious Disease Transmission Act*".

8 Sec. 2. NEW SECTION. 709D.2 Definitions.

9 As used in this chapter, unless the context  
10 otherwise requires:

11 1. "*Contagious or infectious disease*" means  
12 hepatitis in any form, meningococcal disease, AIDS or  
13 HIV as defined in section 141A.1, or tuberculosis.

14 2. "*Exposes*" means any of the following:

15 a. Engages in intimate contact with another person.

16 b. Transfers, donates, or provides the  
17 person's blood, tissue, semen, organs, or other  
18 potentially infectious bodily fluids for transfusion,  
19 transplantation, insemination, or other administration  
20 to another person.

21 c. Dispenses, delivers, exchanges, sells, or in any  
22 other way transfers to another person any nonsterile  
23 intravenous or intramuscular drug paraphernalia  
24 previously used by the person infected with the  
25 contagious or infectious disease.

26 d. Any other conduct that poses a measurable risk  
27 of transmission of a contagious or infectious disease.

28 3. "*Intimate contact*" means the intentional  
29 exposure of the body of one person to a bodily fluid  
30 of another person in a manner that could result in the  
31 transmission of the contagious or infectious disease.

32 Sec. 3. NEW SECTION. 709D.3 Criminal transmission  
33 of a contagious or infectious disease.

34 1. A person commits a class "B" felony when the  
35 person knows the person is infected with a contagious  
36 or infectious disease and exposes an uninfected person  
37 to the contagious or infectious disease with the intent  
38 that the uninfected person contract the contagious or  
39 infectious disease.

40 2. A person commits a class "C" felony when the  
41 person knows the person is infected with a contagious  
42 or infectious disease and exposes an uninfected person  
43 to the contagious or infectious disease acting with a  
44 reckless disregard as to whether the uninfected person  
45 contracts the contagious or infectious disease.

46 3. A person commits a class "D" felony when the  
47 person knows the person is infected with a contagious  
48 or infectious disease and exposes an uninfected  
49 person to the contagious or infectious disease without  
50 informing the uninfected person about the infected

1 person's status as a person infected with a contagious  
2 or infectious disease so as to permit the uninfected  
3 person to adequately protect themselves from becoming  
4 infected with the contagious or infectious disease.

5 4. The act of becoming pregnant while infected  
6 with a contagious or infectious disease, continuing  
7 a pregnancy while infected with a contagious or  
8 infectious disease, or declining treatment for a  
9 contagious or infectious disease during pregnancy shall  
10 not constitute a crime under this chapter.

11 5. A person does not act with the intent required  
12 pursuant to subsection 1 or with the reckless disregard  
13 required pursuant to subsection 2, if the person has  
14 been advised by a person licensed to practice medicine  
15 and surgery or osteopathic medicine and surgery, or by  
16 a physician assistant that the infected person poses no  
17 measurable risk of transmission of the contagious or  
18 infectious disease to an uninfected person.

19 6. It is an affirmative defense to a charge under  
20 this section if the person exposed to the contagious or  
21 infectious disease knew that the infected person was  
22 infected with the contagious or infectious disease at  
23 the time of the exposure and consented to exposure with  
24 that knowledge.

25 Sec. 4. NEW SECTION. 709D.4 Additional remedies.

26 This chapter shall not be construed to preclude the  
27 use of any other civil or criminal remedy available  
28 relating to the transmission of a contagious or  
29 infectious disease.

30 Sec. 5. Section 141A.9, subsection 2, paragraph i,  
31 Code 2014, is amended to read as follows:

32 *i.* Pursuant to sections 915.42 and 915.43, to a  
33 convicted or alleged sexual assault offender; the  
34 physician or other health care provider who orders the  
35 test of a convicted or alleged offender; the victim;  
36 the parent, guardian, or custodian of the victim if  
37 the victim is a minor; the physician of the victim if  
38 requested by the victim; the victim counselor or person  
39 requested by the victim to provide counseling regarding  
40 the HIV-related test and results; the victim's spouse;  
41 persons with whom the victim has engaged in vaginal,  
42 anal, or oral intercourse subsequent to the sexual  
43 assault; members of the victim's family within the  
44 third degree of consanguinity; and the county attorney  
45 who may use the results as evidence in the prosecution  
46 of sexual assault under chapter 915, subchapter V, or  
47 prosecution of the offense of criminal transmission of  
48 HIV a contagious or infectious disease under chapter  
49 ~~709C~~ 709D. For the purposes of this paragraph,  
50 "*victim*" means victim as defined in section 915.40.

1     Sec. 6. Section 692A.101, subsection 1, paragraph  
2 a, subparagraph (9), Code 2014, is amended by striking  
3 the subparagraph and inserting in lieu thereof the  
4 following:

5     (9) Criminal transmission of a contagious or  
6 infectious disease in violation of section 709D.3  
7 through intimate contact as defined in section 709D.2.

8     Sec. 7. Section 692A.102, subsection 1, paragraph  
9 c, subparagraph (23), Code 2014, is amended by striking  
10 the subparagraph and inserting in lieu thereof the  
11 following:

12     (23) Criminal transmission of a contagious or  
13 infectious disease in violation of section 709D.3  
14 through intimate contact as defined in section 709D.2.

15     Sec. 8. Section 915.43, subsections 4 and 5, Code  
16 2014, are amended to read as follows:

17     4. Results of a test performed under this  
18 subchapter, except as provided in subsection 13,  
19 shall be disclosed only to the physician or other  
20 practitioner who orders the test of the convicted or  
21 alleged offender; the convicted or alleged offender;  
22 the victim; the victim counselor or person requested  
23 by the victim to provide counseling regarding the  
24 HIV-related test and results; the physician of  
25 the victim if requested by the victim; the parent,  
26 guardian, or custodian of the victim, if the victim  
27 is a minor; and the county attorney who filed the  
28 petition for HIV-related testing under this chapter,  
29 who may use the results to file charges of criminal  
30 transmission of HIV a contagious or infectious disease  
31 under chapter ~~709C~~ 709D. Results of a test performed  
32 under this subchapter shall not be disclosed to any  
33 other person without the written informed consent of  
34 the convicted or alleged offender. A person to whom  
35 the results of a test have been disclosed under this  
36 subchapter is subject to the confidentiality provisions  
37 of section 141A.9, and shall not disclose the results  
38 to another person except as authorized by section  
39 141A.9, subsection 2, paragraph "i".

40     5. If testing is ordered under this subchapter,  
41 the court shall also order periodic testing of the  
42 convicted offender during the period of incarceration,  
43 probation, or parole or of the alleged offender during  
44 a period of six months following the initial test if  
45 the physician or other practitioner who ordered the  
46 initial test of the convicted or alleged offender  
47 certifies that, based upon prevailing scientific  
48 opinion regarding the maximum period during which the  
49 results of an HIV-related test may be negative for a  
50 person after being HIV-infected, additional testing is

1 necessary to determine whether the convicted or alleged  
2 offender was HIV-infected at the time the sexual  
3 assault or alleged sexual assault was perpetrated.  
4 The results of the test conducted pursuant to this  
5 subsection shall be released only to the physician or  
6 other practitioner who orders the test of the convicted  
7 or alleged offender, the convicted or alleged offender,  
8 the victim counselor or person requested by the victim  
9 to provide the counseling regarding the HIV-related  
10 test and results who shall disclose the results to the  
11 petitioner, the physician of the victim, if requested  
12 by the victim, and the county attorney who may use  
13 the results as evidence in the prosecution of the  
14 sexual assault or in the prosecution of the offense of  
15 criminal transmission of HIV a contagious or infectious  
16 disease under chapter 709C 709D.  
17 Sec. 9. REPEAL. Chapter 709C, Code 2014, is  
18 repealed.  
19 Sec. 10. EFFECTIVE UPON ENACTMENT. This Act, being  
20 deemed of immediate importance, takes effect upon  
21 enactment.>

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COMMITTEE ON JUDICIARY  
BALTIMORE of Boone, Chairperson